NG CHUAN & ANOR. v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J.)
March 18, 1948]
[Singapore — Magistrate's Appeal No. 5 of 1948]

Tobacco Duties Ordinance — Defective sanction to prosecute — Criminal Procedure Code, s. 448.

In this case, in a charge under the Tobacco Duties Ordinance, a sanction to prosecute was put in, but it was not signed by an officer who had authority to do so.

Held, that the lack of the sanction in this case deprived the Court of jurisdiction, section 448 of the Criminal Procedure Code applying only to sanctions required by section 139 of that Code.

MAGISTRATE'S APPEAL.

Mark Morrison for the Appellants.

M. Buttrose for the Respondent.

Murray-Aynsley, C. J. : — There is only one point in this case which concerns an alleged offence against the Tobacco Duties Ordinance. The sanction to prosecute required in these cases was out of order, not having been signed by an officer who had authority to do so. Where a sanction is required to prosecute, the lack of it deprives the Court of jurisdiction. This cannot be cured unless there is statutory provision to that effect. Section 448 of the Criminal Procedure Code makes provision for want of sanction where such sanction is required by section 139 of that Code, but not otherwise.

The appeals must be allowed and the convictions quashed.

Appeals Allowed.

K. NALLIAH v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J.)
March 18, 1948]
[Singapore — Magistrate's Appeal No. 3 of 1948]

Criminal Trial — Necessity of having proper Interpreters for the accused.

In this case the accused was Tamil speaking. There was no Tamil interpreter available at the trial and so the evidence was translated into Malay and the accused gave his evidence in Malay.

Held, that this was a wrong procedure and that there must be a re-trial.

MAGISTRATE'S APPEAL.

A. N. Mitra for the Appellant.

M. Buttrose for the Respondent.

Murray-Aynsley, C. J. : — In this case the appellant, who is Tamil speaking, was charged with and convicted of an offence under section 323 of the Penal Code. At the hearing there was no Tamil interpreter present, so the evidence was translated into Malay and the appellant gave his evidence which was, apparently, given in that language. This is obviously wrong.

I accordingly ordered a new trial.

New Trial Ordered.

MANICKAM v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J.)
March 19, 1948]
[Singapore — Magistrate's Appeal No. 178 of 1947]

Summary Trial — Address by Counsel.

In this case the learned Chief Justice said that both from the point of view of the defence and also in the interests of justice it is desirable that any address by Counsel should be made after the person accused has given his evidence. It is also desirable that, where witnesses for the defence other than the accused have been called, Counsel should be permitted to postpone their address until after the calling of such witnesses. The matter is one for the discretion of the Court.

Case referred to :—

(1) *Lam Heng v. Rex* (1937) M.L.J. 154.

MAGISTRATE'S APPEAL.

Mark Morrison for the Appellant.

M. Buttrose for the Respondent.

Murray-Aynsley, C. J. : — The only point in this case is whether Counsel for the appellant should have been allowed to address the Magistrate. After the close of the case for the complainant counsel made a submission which was overruled. Then the appellant gave evidence himself but no witnesses were called on his behalf. Counsel wished to address the Court after the appellant had given evidence. The question of the right of parties and counsel to make speeches in summary cases is in a state of some confusion. It was dealt with at length by Horne J. in the case of *Lam Heng*[1]. There the learned Judge came to the conclusion that the address by counsel must in a case like the present one be made after the person accused has given his evidence and not before. I do not agree entirely with the reasoning of that learned Judge but I consider that both from the point of view of the defence and also in the interests of justice it is desirable that any address by counsel should be made at that stage. I may also add that I consider it desirable that, where witnesses for the defence other than the accused have been called, counsel should be permitted to postpone their address until after the calling of such witnesses. This is, of course, a matter for the discretion of the Court.

Appeal Dismissed.